

Senate Bill No. 1016

CHAPTER 726

An act to amend Sections 2150, 2157, 2160, 2194, and 2202 of, and to add Sections 2157.1, 2157.2, 2188.1, 9607, 9608, 9609, and 9610 to, the Elections Code, and to amend Section 6254.4 of the Government Code, relating to voter information.

[Approved by Governor October 7, 2005. Filed with
Secretary of State October 7, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1016, Bowen. Voter information: privacy.

(1) Existing law sets forth the requirements for the information to be provided on the affidavit of registration, including that the affidavit of registration include the affiant's California driver's license number, California identification card number, or any other identification number specified by the Secretary of State.

This bill would require that in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number be provided on the affidavit of registration, or, in the case of any other applicant, the last 4 digits of the applicant's social security number be provided on the affidavit of registration. The bill would require that, if an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the state assign the applicant a number which will serve to identify the applicant for voter registration purposes. The bill would require the affidavit of registration to contain a specified statement about confidentiality of the personal information of certain voters, a statement that commercial use of voter registration information is a misdemeanor, and a toll-free hotline telephone number that the public may use to report suspected fraudulent activity concerning the misuse of voter registration information.

(2) Existing law requires any person who registers to vote to complete an affidavit of registration. The information contained in this affidavit of registration is generally confidential, except that it may be provided to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure, or to any person for election, scholarly, journalistic, or governmental purposes. Use of this information for purposes other than those permitted by law is a misdemeanor.

This bill would inform voters about the permissible uses of the personal information supplied by them for the purpose of completing a voter registration affidavit, by requiring local elections officials to post on any local elections official Web site relating to voter information, and requiring the Secretary of State to print in the state ballot pamphlet and post on his or her Web site, information on possible uses of voter

information, as specified. By requiring a local elections official to post the uses of voter information on any local elections official Web site, this bill imposes a state-mandated local program.

This bill would additionally make it a misdemeanor to knowingly use or permit the use of voter registration information for any personal, private, or commercial purpose. By creating a new crime, this bill would impose a state-mandated local program.

(3) Existing law sets forth the requirements and procedures for handling the voter registration card.

This bill would additionally require the voter registration card to contain a specified statement about confidentiality of the personal information of certain voters. The bill would additionally authorize the Secretary of State to exhaust the existing supply of voter registration cards prior to printing new or revised forms that contain the confidentiality statement. The bill would require the voter registration card to be confidential and not used for any personal, private, or commercial purpose, as specified.

This bill would provide that the signature of the voter shown on the voter registration card is confidential and would prohibit the disclosure of the signature to any person, except as specified.

(4) Existing law sets forth the requirements for an application for voter registration information, including a statement of the intended use of the information requested.

This bill would require the Secretary of State to study the feasibility of inserting fictitious names of voters into the voter registration information database as a possible investigative and enforcement tool for determining inappropriate or unauthorized use of voter registration information.

(5) Existing law establishes the procedures for preserving the uncanceled affidavits of registration, including the use of electronic media.

This bill would require that uncanceled affidavits of registration be preserved in a secure manner that will protect the confidentiality of the voter information.

(6) Existing law imposes various requirements concerning the circulation of initiative petitions, and prohibits, subject to misdemeanor penalties, the use of signatures on an initiative petition for a purpose other than qualification of the proposed measure for the ballot.

This bill would require the proponents of an initiative measure to ensure that any person, company, or other organization that is paid, or who volunteers, to solicit signatures to qualify the proposed measure for the ballot receive instruction on the requirements and prohibitions imposed by state law with respect to circulation of the petition and signature gathering thereon, with an emphasis on the prohibition on the use of signatures on an initiative petition for a purpose other than qualification of the proposed measure for the ballot.

This bill would require each proponent of an initiative measure to execute and submit, along with the request for a title and summary for the proposed measure, a signed statement, as specified, acknowledging that it is a misdemeanor under state law to knowingly or willfully allow the

signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot, and certifying that he or she will not knowingly or willfully allow the signatures for the initiative to be used for any purpose other than qualification of the measure for the ballot.

This bill would require the person, company official, or other organizational officer who is in charge of signature gathering, prior to allowing any person to circulate an initiative petition for signatures, to execute and file a similar statement with the proponents. It would also require each circulator, prior to soliciting signatures on an initiative petition, to execute and submit to the person, company official, or other organizational officer who is in charge of signature gathering, a similar statement.

This bill, by requiring the proponents' certified statement required by this bill to be kept on file by the agency authorized to prepare the title and summary for the proposed initiative measure, would impose a state-mandated local program.

(7) This bill would incorporate additional changes to Section 2194 of the Elections Code, proposed by SB 506, to become operative only if SB 506 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 2150 of the Elections Code is amended to read:

2150. (a) The affidavit of registration shall show:

(1) The facts necessary to establish the affiant as an elector.

(2) The affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms., Mrs., or Mr. A person shall not be denied the right to register because of his or her failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(3) The affiant's place of residence, residence telephone number, if furnished, and e-mail address, if furnished. No person shall be denied the

right to register because of his or her failure to furnish a telephone number or e-mail address, and shall be so advised on the voter registration card.

(4) The affiant's mailing address, if different from the place of residence.

(5) The affiant's date of birth to establish that he or she will be at least 18 years of age on or before the date of the next election.

(6) The state or country of the affiant's birth.

(7) (A) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number.

(B) In the case of any other applicant, other than an applicant to whom subparagraph (C) applies, the last four digits of the applicant's social security number.

(C) If an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the state has a computerized list in effect under this subdivision and the list assigns unique identifying numbers to registrants, the number assigned under this subparagraph shall be the unique identifying number assigned under the list.

(8) The affiant's political party affiliation.

(9) That the affiant is currently not imprisoned or on parole for the conviction of a felony.

(10) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as intending to affiliate with another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

(b) The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and the date of signing. If the affiant is unable to write he or she shall sign with a mark or cross.

(c) The affidavit of registration shall also contain a space that would enable the affiant to state his or her ethnicity or race, or both. An affiant may not be denied the ability to register because he or she declines to state his or her ethnicity or race.

(d) If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

SEC. 2. Section 2157 of the Elections Code is amended to read:

2157. (a) Subject to this chapter, the affidavit of registration shall be in a form prescribed by regulations adopted by the Secretary of State. The affidavit shall:

(1) Contain the information prescribed in Section 2150.

(2) Be sufficiently uniform among the separate counties to allow for the processing and use by one county of an affidavit completed in another county.

(3) Allow for the inclusion of informational language to meet the specific needs of that county, including, but not limited to, the return

address of the elections official in that county, and a telephone number at which a voter can obtain elections information in that county.

(4) Be included on one portion of a multipart card, to be known as a voter registration card, the other portions of which shall include information sufficient to facilitate completion and mailing of the affidavit. The affidavit portion of the multipart card shall be numbered according to regulations adopted by the Secretary of State. For purposes of facilitating the distribution of voter registration cards as provided in Section 2158, there shall be attached to the affidavit portion a receipt. The receipt shall be separated from the body of the affidavit by a perforated line.

(5) Contain, in a type size and color of ink that is clearly distinguishable from surrounding text, a statement identical or substantially similar to the following:

“Certain voters facing life-threatening situations may qualify for confidential voter status. For more information, please contact the Secretary of State’s Safe At Home program or visit the Secretary of State’s Web site at www.ss.ca.gov.”

(6) Contain, in a type size and color of ink that is clearly distinguishable from surrounding text, a statement that the use of voter registration information for commercial purposes is a misdemeanor pursuant to subdivision (a) of Section 2194, and any suspected misuse shall be reported to the Secretary of State.

(7) Contain a toll-free fraud hotline telephone number maintained by the Secretary of State that the public may use to report suspected fraudulent activity concerning misuse of voter registration information.

(8) Be returnable to the county elections official as a self-enclosed mailer with postage prepaid by the Secretary of State.

(b) Nothing contained in this division shall prevent the use of voter registration cards and affidavits of registration in existence on the effective date of this section and produced pursuant to regulations of the Secretary of State, and all references to voter registration cards and affidavits in this division shall be applied to the existing voter registration cards and affidavits of registration.

(c) The Secretary of State may continue to supply existing affidavits of registration prior to printing new or revised forms that reflect the changes required pursuant to this section, Section 2150, or Section 2160.

SEC. 3. Section 2157.1 is added to the Elections Code, to read:

2157.1. It is the intent of the Legislature that a voter be fully informed of the permissible uses of personal information supplied by him or her for the purpose of completing a voter registration affidavit.

SEC. 4. Section 2157.2 is added to the Elections Code, to read:

2157.2. In order that a voter be fully informed of the permissible uses of personal information supplied by him or her for the purpose of completing a voter registration affidavit, local elections officials shall post on any local elections official Web site relating to voter information, and the Secretary of State shall print in the state ballot pamphlet and post on

his or her Web site, a statement identical or substantially similar to the following:

“Information on your voter registration affidavit will be used by elections officials to send you official information on the voting process, such as the location of your polling place and the issues and candidates that will appear on the ballot. Commercial use of voter registration information is prohibited by law and is a misdemeanor. Voter information may be provided to a candidate for office, a ballot measure committee, or other person for election, scholarly, journalistic, political, or governmental purposes, as determined by the Secretary of State. Driver’s license and social security numbers, or your signature as shown on your voter registration card, cannot be released for these purposes. If you have any questions about the use of voter information or wish to report suspected misuse of such information, please call the Secretary of State’s Voter Protection and Assistance Hotline.

“Certain voters facing life-threatening situations may qualify for confidential voter status. For more information, please contact the Secretary of State’s Safe At Home program or visit the Secretary of State’s Web site at www.ss.ca.gov.”

SEC. 5. Section 2160 of the Elections Code is amended to read:

2160. (a) Each affidavit of registration issued to a deputy registrar of voters shall meet the requirements prescribed by Section 2157, except that the voter registration card shall be modified, pursuant to regulations adopted by the Secretary of State, to reflect the use of a deputy registrar of voters in lieu of mail delivery. A stub, separated from the body of the voter registration card by a perforated line, shall be attached to each affidavit. Upon the stub shall be printed the following:

- (1) The number of the affidavit.
- (2) Blank lines for the following information:
 - (A) The name of the voter.
 - (B) The residence of the voter.
 - (C) The political affiliation of the voter.
 - (D) The signature of the voter.
 - (E) The signature of the deputy taking the registration.
 - (F) The date.

At the time of registering the voter, the deputy shall fill in the blanks in the stub, and require the voter to sign the stub in the place provided. The deputy shall then detach the stub and the informational portion of the voter registration form from the affidavit and hand the stub and information to the voter.

(b) The Secretary of State may continue to supply existing affidavits of registration prior to printing new or revised forms that reflect the changes required pursuant to this section, Section 2150, or Section 2157.

SEC. 6. Section 2188.1 is added to the Elections Code, to read:

2188.1. The Secretary of State shall study the feasibility of inserting fictitious names of voters into the voter registration information database

as a possible investigative and enforcement tool for determining inappropriate or unauthorized uses of voter registration information.

SEC. 7. Section 2194 of the Elections Code is amended to read:

2194. (a) The voter registration card information identified in subdivision (a) of Section 6254.4 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

(2) Shall not be used for any personal, private, or commercial purpose, including, but not limited to:

(A) The harassment of any voter or voter's household.

(B) The advertising, solicitation, sale, or marketing of products or services to any voter or voter's household.

(C) Reproduction in print, broadcast visual or audio, or display on the Internet or any computer terminal unless pursuant to paragraph (3).

(3) Shall be provided with respect to any voter, subject to the provisions of Section 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

(b) (1) Notwithstanding any other provision of law, the California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on a voter registration card of a registered voter, or added to voter registration records to comply with the requirements of the Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.), are confidential and shall not be disclosed to any person.

(2) Notwithstanding any other provision of law, the signature of the voter shown on the voter registration card is confidential and shall not be disclosed to any person, except as provided in subdivision (c).

(c) (1) The home address or signature of any voter shall be released whenever the person's vote is challenged pursuant to Sections 15105 to 15108, inclusive, or Article 3 (commencing with Section 14240) of Chapter 3 of Division 14. The address or signature shall be released only to the challenger, to elections officials, and to other persons as necessary to make, defend against, or adjudicate the challenge.

(2) An elections official shall permit a person to view the signature of a voter for the purpose of determining whether the signature matches a signature on an affidavit of registration or a petition, but shall not permit a signature to be copied.

(d) A governmental entity, or officer or employee thereof, may not be held civilly liable as a result of disclosure of the information referred to in this section, unless by a showing of gross negligence or willfulness.

(e) For the purposes of this section, "voter's household" is defined as the voter's place of residence or mailing address or any persons who reside

at the place of residence or use the mailing address as supplied on the affidavit of registration pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.

SEC. 7.5. Section 2194 of the Elections Code is amended to read:

2194. (a) The voter registration card information identified in subdivision (a) of Section 6254.4 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

(2) Shall not be used for any personal, private, or commercial purpose, including, but not limited to:

(A) The harassment of any voter or voter's household.

(B) The advertising, solicitation, sale, or marketing of products or services to any voter or voter's household.

(C) Reproduction in print, broadcast visual or audio, or display on the Internet or any computer terminal unless pursuant to paragraph (3).

(3) Shall be provided with respect to any voter, subject to the provisions of Sections 2166.5, 2166.7, and 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

(b) (1) Notwithstanding any other provision of law, the California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on a voter registration card of a registered voter, or added to voter registration records to comply with the requirements of the Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.), are confidential and shall not be disclosed to any person.

(2) Notwithstanding any other provision of law, the signature of the voter shown on the voter registration card is confidential and shall not be disclosed to any person, except as provided in subdivision (c).

(c) (1) The home address or signature of any voter shall be released whenever the person's vote is challenged pursuant to Sections 15105 to 15108, inclusive, or Article 3 (commencing with Section 14240) of Chapter 3 of Division 14. The address or signature shall be released only to the challenger, to elections officials, and to other persons as necessary to make, defend against, or adjudicate the challenge.

(2) An elections official shall permit a person to view the signature of a voter for the purpose of determining whether the signature matches a signature on an affidavit of registration or a petition, but shall not permit a signature to be copied.

(d) A governmental entity, or officer or employee thereof, shall not be held civilly liable as a result of disclosure of the information referred to in this section, unless by a showing of gross negligence or willfulness.

(e) For the purposes of this section, “voter’s household” is defined as the voter’s place of residence or mailing address or any persons who reside at the place of residence or use the mailing address as supplied on the affidavit of registration pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.

SEC. 8. Section 2202 of the Elections Code is amended to read:

2202. (a) The county elections official shall preserve all uncanceled affidavits of registration in a secure manner that will protect the confidentiality of the voter information consistent with Section 2194.

The affidavits of registration shall constitute the register required to be kept by Article 5 (commencing with Section 2180) of Chapter 2.

(b) In lieu of maintaining uncanceled affidavits of registration, the county elections official may, following the first general election after the date of registration, microfilm, record on optical disc, or record on any other electronic medium that does not permit additions, deletions, or changes to the original document, the uncanceled affidavits of registration. Any such use of an electronic medium to record uncanceled affidavits shall protect the security and confidentiality of the voter information. The county elections official may dispose of any uncanceled affidavits of registration transferred pursuant to this section. The disposal of any uncanceled affidavits shall be performed in a manner that does not compromise the security or confidentiality of the voter information contained therein. Any medium utilized by the county elections official shall meet the minimum standards, guidelines, or both, as recommended by the American National Standards Institute or the Association of Information and Image Management. For purposes of this section, a duplicate copy of an affidavit of registration shall be deemed an original.

SEC. 9. Section 9607 is added to the Elections Code, to read:

9607. The proponents of an initiative measure shall ensure that any person, company, or other organization that is paid, or who volunteers, to solicit signatures to qualify the proposed measure for the ballot shall receive instruction on the requirements and prohibitions imposed by state law with respect to circulation of the petition and signature gathering thereon, with an emphasis on the prohibition on the use of signatures on an initiative petition for a purpose other than qualification of the proposed measure for the ballot.

SEC. 10. Section 9608 is added to the Elections Code, to read:

9608. (a) A proponent of an initiative measure shall execute and submit, along with the request for a title and summary for the proposed measure, a signed statement that reads as follows:

I, ____, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Proponent)

Dated this ____ day of _____, 20__

(b) The certification required by subdivision (a) shall be kept on file by the agency authorized to prepare the title and summary for the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

SEC. 11. Section 9609 is added to the Elections Code, to read:

9609. (a) Prior to allowing a person to circulate an initiative petition for signatures, the person, company official, or other organizational officer who is in charge of signature gathering shall execute and submit to the proponents a signed statement that reads as follows:

I, ____, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Official)

Dated this ____ day of _____, 20__

(b) The certification required by subdivision (a) shall be kept on file by the proponents of the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

SEC. 12. Section 9610 is added to the Elections Code, to read:

9610. (a) Prior to soliciting signatures on an initiative petition, a circulator shall execute and submit to the person, company official, or other organizational officer who is in charge of signature gathering a signed statement that reads as follows:

I, ____, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Circulator)

Dated this ____ day of _____, 20____

(b) The certification required by subdivision (a) shall be kept on file by the person, company official, or other organizational officer who is in charge of signature gathering for the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) This section shall not apply to unpaid circulators of state or local initiative petitions.

(d) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

SEC. 13. Section 6254.4 of the Government Code is amended to read:

6254.4. (a) The home address, telephone number, e-mail address, precinct number, or other number specified by the Secretary of State for voter registration purposes, and prior registration information shown on the voter registration card for all registered voters, are confidential and shall not be disclosed to any person, except pursuant to Section 2194 of the Elections Code.

(b) For purposes of this section, “home address” means street address only, and does not include an individual’s city or post office address.

(c) The California driver’s license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on a voter registration card of a registered voter, or added to the voter registration records to comply with the requirements of the Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.), are confidential and shall not be disclosed to any person.

(d) The signature of the voter that is shown on the voter registration card is confidential and shall not be disclosed to any person.

SEC. 14. Section 7.5 of this bill incorporates amendments to Section 2194 of the Elections Code proposed by both this bill and SB 506. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 2194 of the Elections Code, and (3) this bill is enacted after SB 506, in which case Section 7 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may

be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.